

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

APR -9 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Appellee,)	2 CA-CR 2009-0271
)	DEPARTMENT B
v.)	
)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
RODNEY S. SCROGGINS,)	Rule 111, Rules of
)	the Supreme Court
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20083494

Honorable Charles S. Sabalos, Judge

AFFIRMED

Robert J. Hirsh, Pima County Public Defender
By Kristine Maish

Tucson
Attorney for Appellant

V Á S Q U E Z, Judge.

¶1 Following a jury trial in 2009, appellant Rodney Scroggins was convicted of possession of more than four pounds of marijuana for sale, a class two felony. *See* A.R.S. § 13-3405(A)(2), (B)(6). The trial court sentenced Scroggins to a substantially mitigated prison term of three years. Appellate counsel has filed a brief pursuant to

Anders v. California, 386 U.S. 738 (1967), *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 2000). Counsel states she has reviewed the record in compliance with *Anders* without finding any meritorious issues to raise on appeal and asks us to search the record for “error.” Scroggins has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdict, the evidence was sufficient to support the jury’s finding of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999).

¶3 Despite having found no “meritorious legal issues to raise on appeal,” counsel nonetheless suggests the trial court “arguably” erred in failing to admonish the jury not to consider accomplice liability. Counsel asserts the jury may have been confused by this omission because the preliminary instructions given the jury contained an accomplice liability instruction, but the final instructions did not. When the court gave the preliminary jury instructions, it expressly stated, “At the conclusion of the trial, I will be giving you more detailed instructions, and those instructions will control the legal aspects of your deliberations.” Later, when the court read the final instructions to the jury, it explained that the preliminary instructions would be “withdrawn.” We presume the jurors followed the court’s instructions. *State v. Newell*, 212 Ariz. 389, ¶ 69, 132 P.3d 833, 847 (2006). Because nothing in the record suggests the jurors were in any way confused or misled by the trial court’s failure to admonish them not to consider accomplice liability, we find no error, fundamental or otherwise.

¶4 Pursuant to our obligation under *Anders*, we have reviewed the record for fundamental, reversible error and have found none. Therefore, we affirm Scroggins's conviction and sentence.

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Judge

CONCURRING:

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Presiding Judge

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Judge